

OCT - 9 2009

For The Northern Mariana Islands  
By \_\_\_\_\_  
(Deputy Clerk)

USCA DOCKET # (IF KNOWN)

**UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT  
CIVIL APPEALS DOCKETING STATEMENT**

PLEASE ATTACH ADDITIONAL PAGES IF NECESSARY

<b>TITLE IN FULL</b>  RANDALL T. FENNELL v. MATTHEW T. GREGORY, former Attorney General, GREGORY BAKA, Acting Attorney General, ANTHONY WELCH, Assistant Attorney General and TOM J. SCHWEIGER, Assistant Attorney General	<b>DISTRICT:</b> USDCNMI <b>JUDGE:</b> Alex R. Munson, Chief Judge	
	<b>DISTRICT COURT NUMBER:</b> Civil No. 09-0019	
	<b>DATE NOTICE OF APPEAL FILED:</b> 10/09/2009	<b>IS THIS A CROSS-APPEAL?</b> <input type="checkbox"/> YES
	IF THIS MATTER HAS BEEN BEFORE THIS COURT PREVIOUSLY, PLEASE PROVIDE THE DOCKET NUMBER AND CITATION (IF ANY):	
<b>BRIEF DESCRIPTION OF NATURE OF ACTION AND RESULT BELOW:</b>  This is a civil action brought under 42 U.S.C. section 1983 alleging in violation of plaintiff's First Amendment, equal protection, and due process rights. Defendant-Appellants seek review of the trial courts denial of qualified immunity.		
<b>PRINCIPAL ISSUES PROPOSED TO BE RAISED ON APPEAL:</b>  The trial court ruled if the facts alleged are proven the Defendant-Appellants violated in a new and novel way Plaintiff-Appellee's rights. Government officials are entitled to qualified immunity if the Constitutional Right violated was not clearly established. Did the trial court err in finding that a new and novel violation is clearly established?		
<b>PLEASE IDENTIFY ANY OTHER LEGAL PROCEEDING THAT MAY HAVE A BEARING ON THIS CASE (INCLUDE PENDING DISTRICT COURT POST JUDGMENT MOTIONS):</b>  N/A		
<b>DOES THIS APPEAL INVOLVE ANY OF THE FOLLOWING:</b>		
<input type="checkbox"/> Possibility of settlement		
<input type="checkbox"/> Likelihood that intervening precedent will control outcome of appeal		
<input type="checkbox"/> Likelihood of a motion to expedite or to stay the appeal, or other procedural matters (Specify) _____		
<input type="checkbox"/> Any other information relevant to the inclusion of this case in the Mediation Program _____		
<input type="checkbox"/> Possibility parties would stipulate to binding award by Appellate Commissioner in lieu of submission to judges		
<b>LOWER COURT INFORMATION</b>		


ORIGINAL

JURISDICTION		DISTRICT COURT DISPOSITION	
FEDERAL	APPELLATE	TYPE OF JUDGMENT/ORDER APPEALED	RELIEF
<input checked="" type="checkbox"/> FEDERAL QUESTION <input type="checkbox"/> DIVERSITY <input type="checkbox"/> OTHER (SPECIFY):	<input type="checkbox"/> FINAL DECISION OF DISTRICT COURT <input checked="" type="checkbox"/> INTERLOCUTORY DECISION APPEALABLE AS OF RIGHT <input type="checkbox"/> INTERLOCUTORY ORDER CERTIFIED BY DISTRICT JUDGE (SPECIFY): <input type="checkbox"/> OTHER (SPECIFY):	<input type="checkbox"/> DEFAULT JUDGMENT <input type="checkbox"/> DISMISSAL/JURISDICTION <input checked="" type="checkbox"/> DISMISSAL/MERITS <input type="checkbox"/> SUMMARY JUDGMENT <input type="checkbox"/> JUDGMENT/COURT DECISION <input type="checkbox"/> JUDGMENT/JURY VERDICT <input type="checkbox"/> DECLARATORY JUDGMENT <input type="checkbox"/> JUDGMENT AS A MATTER OF LAW <input type="checkbox"/> OTHER (SPECIFY):	<input type="checkbox"/> DAMAGES: SOUGHT \$ _____ AWARDED \$ _____ <input type="checkbox"/> INJUNCTIONS: <input type="checkbox"/> PRELIMINARY <input type="checkbox"/> PERMANENT <input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED <input type="checkbox"/> ATTORNEY FEES: SOUGHT \$ _____ AWARDED \$ _____ <input type="checkbox"/> PENDING <input type="checkbox"/> COSTS: \$ _____

### CERTIFICATION OF COUNSEL

**I CERTIFY THAT:**

1. COPIES OF ORDER/JUDGMENT APPEALED FROM ARE ATTACHED
2. A CURRENT SERVICE LIST OR REPRESENTATION STATEMENT WITH TELEPHONE AND FAX NUMBERS IS ATTACHED (SEE 9TH CIR. RULE 3-2).
3. A COPY OF THIS CIVIL APPEALS DOCKETING STATEMENT WAS SERVED IN COMPLIANCE WITH FRAP 25.
4. I UNDERSTAND THAT FAILURE TO COMPLY WITH THESE FILING REQUIREMENTS MAY RESULT IN SANCTIONS, INCLUDING DISMISSAL OF THIS APPEAL.


10/9/09  
 Signature Date

### COUNSEL WHO COMPLETED THIS FORM

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\* THIS DOCUMENT SHOULD BE FILED IN THE DISTRICT COURT WITH THE NOTICE OF APPEAL \*  
 \* IF FILED LATE, IT SHOULD BE FILED DIRECTLY WITH THE U.S. COURT OF APPEALS \*